

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-3591-2016 (O&M)
Date of decision: 13.03.2018

PRITPAL SINGH

... Petitioner

Versus

BHUPINDER SINGH AND ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. V.S. Rana, Advocate
for the petitioner.

Mr. Onkar Rai, Advocate
for caveator/respondent No.2.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against concurrent findings recorded by the Courts whereby application for eviction filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short 'the Act') was allowed by the Rent Controller, SAS Nagar, Mohali and the order passed by the Rent Controller has been affirmed in appeal by the Appellate Authority on 18.02.2016.

Counsel for the petitioner has sought to assail orders passed by the Courts primarily on two counts. The first submission made by counsel is that as respondent No.1 is in Australia, he was required to file an application for eviction under Section 13-B of the Act in place of invoking Section 13 thereof. The second submission made by counsel is that father

of respondent No.1 is owner of adjoining property, therefore, he being the only son of Dalbir Singh shall be entitled to a share in the said property, therefore, findings of the Courts accepting claim of *bona fide* personal necessity are liable to be set aside.

Counsel representing respondent No.2/caveator would inform the Court that possession of the premises in question has already been delivered to the respondents in execution of eviction order through process of the Court on 05.08.2016, therefore, the petition has been rendered infructuous.

Counsel for the petitioner has expressed his inability to say something about delivery of possession to the respondents.

The contention raised by counsel for the petitioner that respondent No.1 was required to file the petition under Section 13-B of the Act is highly misconceived and deserves outright rejection. Even if a person is NRI, there is no bar in law for him to file a petition under Section 13 of the Act in place of taking benefit of special provision in the Act for benefit of NRI landlords.

The second submission made by counsel that father of respondent No.1 is owner of adjoining property would negate plea of the respondents qua *bona fide* personal necessity is untenable. So long as father of respondent No.1 is alive, he has no right in self acquired property of his father.

No other point has been raised.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

No order as to costs.

13.03.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No